

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GEORGE MERCIER,)
vs.) Plaintiff,) Case No. 2:07-cv-00276-RCJ-GWF
MARK JAMES, *et al.*,) Defendants.)
)

On March 6, 2007, the undersigned Magistrate Judge issued Order (#2), which denied Plaintiff's application to proceed *in forma pauperis*. The Court ordered Plaintiff to pay the filing fee of three hundred fifty dollars (\$350.00) within thirty (30) days from the date Order (#2) was entered. To date, Plaintiff has not complied with the Court's order within the allotted time period.

RECOMMENDATION

Based on the foregoing, it is the **recommendation** of the undersigned United States Magistrate Judge that the Complaint should be **dismissed** with prejudice based on Plaintiff's failure to pay the filing fee of three hundred fifty dollars (\$350.00).

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)

1 failure to file objections within the specified time and (2) failure to properly address and brief the
2 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
3 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
4 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

5 DATED this 21st day of November, 2007.

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8 **GEORGE FOLEY, JR.**
9 **UNITED STATES MAGISTRATE JUDGE**

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